

REMARKS

By the present amendment claims 1, 4, and 6 have been amended and claim 5 has been cancelled. Claims 1, 4 and 6 remain in the application with claims 1 and 6 in independent form.

Support for these amendments can be found throughout the specification. The Examiner is specifically directed to page 3, lines 30-38; page 8, line 38 through page 9, line 2; page 14, lines 33-37; and the examples 1-3 which begin on page 15. In all of these sections it is emphasized that the invention is utilized in forming flexible polyurethane foams and that the preferred use of foams produced according to the present invention are in the environments of mattresses, furniture upholstery, foam backing for carpets, foam backing for instrument panels, foam backing for steering wheels, or in shoe soles. In all of these environments it is necessary to have a flexible foam rather than a rigid foam.

The Examiner rejected claims 1 and 4-6 under 35 USC §112, 2nd paragraph as being indefinite, specifically the Examiner objected to claims 1 and 6 as being in improper Markush language and required correction. Claims 1 and 6 have been amended to address the Examiner's rejection thus it is believed that this rejection should be withdrawn.

The Examiner rejected claims 1 and 4-6 under 35 USC §102(b) as being anticipated by Bodnar et al. (5,143,945). Rejection of a claim under 35 USC §102(b) requires that each and every limitation of the rejected claim be found within a single reference. If even a single limitation of the rejected claim is not found within the cited reference the rejection is improper and must be withdrawn.

Claim 1 has been amended to recite a process for producing a flexible polyurethane foam. Claim 6 has been amended to claim a flexible polyurethane foam.

The cited reference Bodnar et al. is directed exclusively toward production of rigid polyurethane-polyisocyanurate foams. There is no disclosure in Bodnar et al. of any process for producing a flexible polyurethane foam as required by independent claims 1 and 6 of the present application. The Examiner is directed to the following portions of Bodnar et al. wherein it is made clear that the entire disclosure is directed toward production of rigid polyurethane foams. The abstract; column 1, lines 14-17; column 2, lines 39-61; column 3, lines 14-19; column 4, lines 23-26 and lines 66 though column 5, line 4; and examples 1-5 which disclose 23 examples of rigid polyurethane foams. In column 2, lines 50-56 Bodnar et al. defines the term rigid to be a “cellular polyurethane-polyisocyanurate having a closed cell content of at least 85 percent and a density falling within a range of from about 0.5 to about 20 pounds per cubic foot”. Such a closed cell content of a foam clearly puts it outside definition of a flexible polyurethane foam as would be understood by one of ordinary skill in the art.

Bodnar et al. is specifically directed toward use of a unique blowing agent combination to achieve a rigid polyurethane foam having an acceptably high thermal insulation value as determined by the K-factor and a desirable level of friability. The Examiner is directed to column 2, lines 39-49 and column 4, lines 40-47 wherein Bodnar et al. explains the necessity of having a blowing agent combination of a halocarbon in combination with an organic carboxylic acid wherein the carboxylic acid group is attached to a non-aromatic carbon atom and wherein the proportion of equivalents of the carboxylic acid to the total equivalents of tertiary amine

present in the reaction mixture is at least about 1.2:1. Bodnar et al. has no disclosure within it whatsoever of a flexible polyurethane foam. Because Bodnar et al. fails to disclose at least one limitation of independent claims 1 and 6, the rejection of these claims and the claims which depend therefrom under 35 USC §102(b) based on Bodnar et al. is improper and must be withdrawn.

Applicant's attorney respectfully submits that the claims as amended are now in condition for allowance and respectfully requests such allowance.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS



June 17, 2005

Date

Randall L. Shoemaker, Registration No. 43,118
Howard and Howard Attorneys, P.C.
The Pinehurst Office Center, Suite 101
39400 Woodward Ave.
Bloomfield Hills, MI 48304-5151
(248) 723-0425

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service as Express Mail, Mail Label No. EV 612877145 US, postage prepaid, in an envelope addressed to, Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on **June 17, 2005**.



Rainie Mills